

APPEAL NO. 162638
FILED FEBRUARY 14, 2017

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on November 28, 2016, with the record closing on December 1, 2016, in (city), Texas, with (hearing officer) presiding as hearing officer. The hearing officer resolved the disputed issues by deciding that: (1) the first certification of maximum medical improvement (MMI) and assigned impairment rating (IR) from the Texas Department of Insurance, Division of Workers' Compensation (Division) designated doctor, (Dr. R), dated March 18, 2016, became final pursuant to Section 408.123 and 28 TEX. ADMIN. CODE § 130.12 (Rule 130.12); (2) the appellant (claimant) reached MMI on May 7, 2015; and (3) the claimant's IR is eight percent.

The claimant appealed, disputing the hearing officer's determinations of finality, MMI, and IR. The claimant argues on appeal that there is no proof which establishes when the first certification from Dr. R was delivered by verifiable means. The claimant also contends that he has not yet reached MMI and the hearing officer's findings of fact and conclusions of law regarding the date of MMI are not supported by the evidence. The respondent (carrier) responded, urging affirmance of the disputed determinations.

DECISION

Reversed and remanded for reconstruction of the record.

The entire CCH record has not been received by the Appeals Panel. Although the audio recording of the CCH has been forwarded to the Appeals Panel, no exhibits have been forwarded for review. The recording of the CCH reflects that documentary exhibits were both offered and admitted at the CCH. Efforts to locate the exhibits of the proceeding have been unsuccessful. Section 410.203(a)(1) requires the Appeals Panel to consider the record developed at the CCH. Consequently, we reverse and remand this case for reconstruction of the CCH record to include the exhibits, or forwarding of the CCH record to include the exhibits of the CCH if they can be located. See Appeals Panel Decision (APD) 060353, decided April 12, 2006.

Pending resolution of the remand, a final decision has not been made in this case. However, since reversal and remand necessitate the issuance of a new decision and order by the hearing officer, a party who wishes to appeal from such new decision must file a request for review not later than 15 days after the date on which such new decision is received from the Division, pursuant to Section 410.202 which was amended June 17, 2001, to exclude Saturdays and Sundays and holidays listed in Section

662.003 of the Texas Government Code in the computation of the 15-day appeal and response periods. See APD 060721, decided June 12, 2006.

According to the hearing officer's decision and order, the true corporate name of the insurance carrier is **AMERICAN ZURICH INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
211 EAST 7TH STREET, SUITE 620
AUSTIN, TEXAS 78701-3218.**

Margaret L. Turner
Appeals Judge

CONCUR:

K. Eugene Kraft
Appeals Judge

Carisa Space-Beam
Appeals Judge